

Appl. No. : 09/945,026  
Filed : August 31, 2001

## REMARKS

The specification and Claims 27, 28 and 55 have been amended as the Examiner suggested, in order to correct certain typographical errors. In addition, in accordance with the requirements of 37 C.F.R. § 1.78(a), the Applicant has amended the specification to include application priority data that was previously submitted in transmittal letters, in order to ensure proper citation of these priority claims.

Claims 26-33 and 35-66 were pending in the present application. The Applicant wishes to thank the Examiner for allowing Claims 26-33, 35-46 and 58-64. Claims 54 and 55 were objected to as dependent upon a rejected independent claim, and Claim 54 has therefore been rewritten in independent form including all the limitations of the independent claim on which it depended. Claim 53 has been canceled. Therefore, claims 47-52, 54-57, 65-66 and new Claims 67-79 remain pending for further consideration by the Examiner.

### **Response to the Rejection of Claims 47-51, 53 and 57 under 35 U.S.C. § 102(b)**

The Examiner rejected the above claims under 35 U.S.C. § 102(b) as anticipated by *Piane Jr. et al.*, U.S. Patent No. 5,102,122, and/or *Carlson*, U.S. Patent No. 4,720,099. Claim 53 has been canceled. Applicant respectfully requests reconsideration of the remaining claims in light of the amendments made to independent Claim 47.

Claim 47 has been amended to recite an exercise apparatus having “a stationary frame portion including an operator support having a first side configured to support at least a portion of a back of an operator and a generally opposite second side,” and “a moveable frame portion being moveable relative to the stationary frame portion between at least a first position and a second position along an arcuate path that lies principally to the second side of the operator support.” Neither of the cited references disclose, among other elements recited in this claim, such a configuration. Therefore, reconsideration of Claim 47 is respectfully requested.

Claims 48-51 and 57 are allowable both because they depend from an allowable independent claim and because they recite further patentable distinctions. Reconsideration is respectfully requested.

Appl. No. : 09/945,026  
Filed : August 31, 2001

**Response to the Rejection of Claims 47-53, 56, 57, 65 and 66 under 35 U.S.C. § 103(a)**

The Examiner rejected the above claims under 35 U.S.C. § 103(a) as unpatentable over Piane, Jr., over Piane, Jr. et al. in view of Cook, U.S. Patent No. 5,018,725, and over Carlson. The Applicant has canceled Claim 53. In light of the amendments made to Claims 47 and 65, the Applicant respectfully requests reconsideration of the remaining rejections.

The amendments made to Claim 47 are discussed in further detail above, and the recited configuration is not disclosed in any of the cited references.

Claim 65 has been amended, in part, to recite an exercise apparatus having an “operator support configured to receive an operator in an operator’s station having a first reference position . . . wherein the first reference position is disposed to a first side of the operator support, and at least a portion of the track is disposed to a generally opposing second side of the operator support.” None of the cited references disclose, among other elements recited in Claim 65, the amended configuration.

Claims 48-52, 56, 57 and 66 are allowable both because they depend from an allowable independent claim and because they recite further patentable distinctions.

**New Claims 67-79**

New Claims 67-79 have been added to include additional patentable combinations of elements of an exercise apparatus. The references cited by the Examiner in this Office Action do not anticipate or render obvious the subject matter of these claims. For example, none of the cited references disclose “a motor coupled to the moveable frame portion so as to move the moveable frame portion along the arcuate path.” Applicant thus respectfully submits that the new claims are allowable as presented.

**CONCLUSION**

For the foregoing reasons, it is respectfully submitted that the rejections set forth in the outstanding Office Action are inapplicable to the present claims. Accordingly, issuance of a Notice of Allowance is most earnestly solicited.

The undersigned has made a good faith effort to respond to all of the rejections in the case and to place the claims in condition for immediate allowance. Nevertheless, if any undeveloped

**Appl. No.** : **09/945,026**  
**Filed** : **August 31, 2001**

issues remain or if any issues require clarification, the Examiner is respectfully requested to call Applicant's attorney in order to resolve such issue promptly.

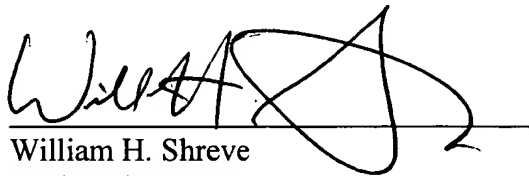
Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

KNOBBE, MARTENS, OLSON & BEAR, LLP

Dated: July 27, 2004

By:

A handwritten signature in black ink, appearing to read 'William H. Shreve', is written over a horizontal line.

William H. Shreve  
Registration No. 35,678  
Attorney of Record  
Customer No. 20,995  
(949) 760-0404

H:\DOCS\WHS\WHS-9882.DOC  
072704